1945 **File No.** Removal of Disqualification II/45

Legal Deptt

BRANCH

Subject:— Removal of Disqualification from continuing as a member of the Bombay Legislature under the Government of India Act, 1935

E/1

File No. Removal of Disqualification II/45

Gen. 194 e.

207-B

Office of the R.L.A.

It is proposed to certify the post of Rationing Officer in the Province of Bombay to be an office created for a purpose connected with the prosecution of the war under section 4 of the Bombay Legislature Members (Removal of Disqualifications) Act, 1937.

2. Before action under section 4 can be taken it is necessary to consider whether the post of Rationing Officer is created for a purpose connected with the prosecution of the war. The point is not quite free from doubt. It is of course arguable that the post created under the Defence of India Rules solely in connection with the maintenance of supplies essential to the life of the community, that it is likely to be continued even after the termination of the war, that the need for maintaining essential supplies has arisen on account of war conditions and that therefore it has only an indirect if not remote connection with the actual prosecution of the war. To my mind this argument is based on an unduly narrow interpretation of the expression "prosecution of the war". This expression as used in the Bombay Legislature Members (Removal of Disqualifications) Act,1937, is of wide import. It includes any such action in time of war as may conduce to the successful and effi-cient prosecution of the war. Maintenance of supplies is an essential requisite to the efficient prosecution of the war. Part of the Rationing Officer(s duty is to ensure maintenance of essential supplies not only for the civil residents of his area but also for the large section of the population engaged on vital war work. It can hardly be contended that the connection of cause and effect between the measure securing the maintenance of supplies and the effecient prosecution of the war is so remote that the one cannot reasonably be regarded as affecting the other. Viewed from that angel

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the post of Rationing Officer can be said to have been created for purposes connected with the prosecution of the war. It is however largely a matter for the Government's conscience whether the post can be certified as such. A certificate issued by the Government of Bombay under section 4 of the Act would be conclusive and would not be open to challenge in a court of law. I would accordingly request that orders of Government be obtained whether in the circumstances poin ed out the proposed certificate should issue.

sd/- P.N.M.
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Remembrancer of Legal Affairs.

U.R.to Supply Commissioner, No. 1490 dated the 21st February 1945.

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